



INTERNATIONAL TRADE COMMISSION

Certain Bone Cements, Components Thereof and Products Containing the Same

[Investigation No. 337-TA-1153]

Notice of Commission Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to affirm in part, reverse in part, and vacate in part the final initial determination’s (“ID”) finding that no violation of section 337 has occurred. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436, telephone (202) 205-3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 10, 2019, based on a complaint filed by Heraeus Medical LLC of Yardley, Pennsylvania, and Heraeus Medical GmbH of Wehrheim, Germany (collectively, “Complainants”). 84 FR 14394–95 (Apr. 10, 2019). The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States or to prevent the establishment

of such an industry. The complaint named the following respondents: Zimmer Biomet Holdings, Inc. of Warsaw, Indiana; Biomet, Inc. of Warsaw, Indiana; Zimmer Orthopaedic Surgical Products, Inc. of Dover, Ohio; Zimmer Surgical, Inc. of Dover, Ohio; Biomet France S.A.R.L. of Valence, France; Biomet Deutschland GmbH of Berlin, Germany; Zimmer Biomet Deutschland GmbH of Freiburg im Breisgau, Germany; Biomet Europe B.V. of Dordrecht, Netherlands; Biomet Global Supply Chain Center B.V. of Dordrecht, Netherlands; Zimmer Biomet Nederland B.V. of Dordrecht, Netherlands; Biomet Orthopedics, LLC of Warsaw, Indiana; and Biomet Orthopaedics Switzerland GmbH of Dietikon, Switzerland. The Commission's Office of Unfair Import Investigations ("OUII") also was named as a party.

The investigation has terminated as to respondents Zimmer Orthopaedic Surgical Products, Inc. and Biomet Europe B.V., Order No. 10 (May 23, 2019), *unreviewed*, Notice (June 14, 2019), and as to certain accused products, Order No. 30 (Nov. 24, 2019), *unreviewed*, Notice (Dec. 10, 2019). Also, the first amended complaint and notice of investigation were amended to add three entities as respondents: Zimmer US, Inc.; Zimmer, GmbH; and Biomet Manufacturing, LLC. Order No. 18 (June 26, 2019), *unreviewed*, 84 FR 35884–85 (July 25, 2019). The remaining respondents are referred to collectively herein as "Zimmer Biomet."

On May 6, 2020, the presiding administrative law judge ("ALJ") issued the final ID, which found that Zimmer Biomet did not violate section 337. On May 18, 2020, the parties filed petitions for review of the final ID.

On July 13, 2020, the Commission determined to review in part the final ID and requested briefing from the parties on the issues under review. In particular, the Commission determined to review the following: (1) the ALJ's findings and conclusions as to TS 1–35 and 121–23; and (2) the ALJ's domestic industry findings, including whether there has been a substantial injury to the alleged domestic industry. The Commission also sought briefing from the parties, interested government agencies, and any other interested parties on remedy, bonding, and the public interest.

Having examined the record of this investigation, including the final ID, the petitions for review, the responses thereto, and the written submissions in response to the Commission's request for briefing, the Commission finds that no violation of section 337 has occurred. Specifically, the Commission finds that the Complainants did not establish that an industry in the United States exists as required by section 337(a)(1)(A)(i) and therefore did not establish injury to a domestic industry. The investigation is hereby terminated.

The Commission vote for this determination took place on January 12, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Lisa Barton,
Secretary to the Commission.

Issued: January 12, 2021.

[FR Doc. 2021-00996 Filed: 1/15/2021 8:45 am; Publication Date: 1/19/2021]